

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 2882-01
BILL NO.: HB 1772
SUBJECT: Business and Commerce; Merchandising Practices
TYPE: Original
DATE: March 27, 2000

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON STATE FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2001 | FY 2002 | FY 2003 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> State Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2001 | FY 2002 | FY 2003 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|------------|------------|------------|
| FUND AFFECTED | FY 2001 | FY 2002 | FY 2003 |
| Local Government | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 3 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Labor and Industrial Relations, Office of the State Courts Administrator**, and **Department of Insurance** assume the proposed legislation would have no fiscal impact on their agencies.

| <u>FISCAL IMPACT - State Government</u> | FY 2001 (10 Mo.) | FY 2002 | FY 2003 |
|---|---------------------|---------|---------|
| | \$0 | \$0 | \$0 |
| <u>FISCAL IMPACT - Local Government</u> | FY 2001 (10 Mo.) | FY 2002 | FY 2003 |
| | \$0 | \$0 | \$0 |

FISCAL IMPACT - Small Business

The proposed legislation could have a potential fiscal impact on small businesses involved in a franchise situation.

DESCRIPTION

The proposed legislation regulates various franchise transactions. In its main provisions, the proposal: (1) outlines illegal practices in connection with the advertising, offering, sale, or promotion of any franchise; (2) outlines unlawful behaviors in connection with disclosure documents, notices, or reports, with these provisions effective 90 days after the effective date of the proposal; (3) prohibits certain actions in connection with the performance, enforcement, renewal, or termination of any franchise agreement, including fraud and discrimination; (4) prohibits a franchisor from terminating a franchise agreement prior to its expiration without good cause; (5) specifies that a franchisor may not prohibit a franchisee from engaging in any business at any location after the franchise agreement has expired; (6) stipulates that a duty to act in good faith is imposed on each party to a franchise contract; (7) stipulates that duty of due care is imposed on the franchisor by a franchise agreement; (8) states that the franchisor owes a fiduciary duty to its franchisees and is required to exercise the highest standard of care for franchisee interests under certain conditions; (9) requires franchisors who administer or supervise the funds or accounting functions for franchisees to keep all related moneys in a separate account and to provide an independent audit of the account; (10) allows a franchisee to assign an interest

DESCRIPTION (continued)

in a franchised business to certain transferees, with a minimum 30-days written notice to the franchisor; (11) outlines the conditions the franchisor may require for approved transfers and specifies those occurrences which do not constitute transfers requiring the consent of the franchisor; (12) allows a franchisee to assign his or her interest in the franchise for the unexpired term of the franchise agreement; (13) outlines the conditions under which a franchisor is allowed to sell or transfer interest in a franchise; (14) prohibits a franchisor from restricting a franchisee from obtaining equipment, supplies, or services used in the operation of the franchise from a source of the franchisee's choosing, within certain broad limits; (15) requires franchisors to report at least once a year the amount of revenue and profit earned from the sale of equipment, fixtures, supplies, or services to their franchisees; (16) restricts a franchisor from placing new outlets for a franchised business in unreasonable proximity to an established outlet of a similar kind of franchised business; (17) authorizes the state to bring a civil action when the Attorney General has reason to believe that the interests of Missouri residents are adversely affected due to a violation of the provisions of the proposal; and (18) authorizes any party to a franchise who is injured by a violation of the provisions of the proposal to a right of action for rescission and restitution, and for all damages and injunctive relief. The provisions of the proposal apply to franchise transactions occurring after the effective date of the proposal.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the State Courts Administrator
Department of Labor and Industrial Relations
Department of Insurance

NOT RESPONDING: Office of the Attorney General



Jeanne Jarrett, CPA
Director
March 27, 2000